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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/510,109 | 05/23/2005 | Firmin Garcia | Q83563 | 5076 |
| 23373 | 7590 | 11/16/2005 | EXAMINER | |
| SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037 | | | BOECKMANN, JASON J | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3752 | |

DATE MAILED: 11/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/510,109

Applicant(s)

GARCIA ET AL.

Examiner

Jason J. Boeckmann

Art Unit

3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 9 is/are rejected.
- 7) ☒ Claim(s) 7 and 8 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 October 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>10/4/2004</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Specification

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text are permitted to be submitted on compact discs.) or
REFERENCE TO A "MICROFICHE APPENDIX" (See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.)
- (f) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-5 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Garcia (5,096,098) in view of Clanet et al (5,624,055).

Gracia shows a dispenser head (2) comprising a connection sleeve (30), a dispenser orifice (25), a duct (33) connecting the connection sleeve (30) to the dispenser orifice (25) and a press surface (22). The head further comprising a shutter (17) that is housed at least in part in the duct (33), which is resiliently biased by spring means (11) towards the dispenser orifice (25). The shutter (17) includes a contact zone (15) that bears in a resilient leak tight manor against the dispensing orifice (25). The shutter being axially movable in such a means as to withdraw its contact zone form the dispensing orifice (25) creating an outlet passageway for the fluid when sufficient

pressure is exerted on the press surface (22). The shutter (17) also includes at least one abutment zone (14) that is resiliently biased by the spring means (11) against a fixed support zone (24). Garcia does not disclose that at least one of the dispenser orifice and the contact zone present a frustoconical configuration. However, Clanet et al shows a dispenser head (18) including a shutter (23) and a dispensing orifice (29), the shutter and the dispensing orifice both having frustoconical configurations (figure 4). It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention, under the teachings of Clanet et al, to construct the dispensing orifice (25) and shutter (17), of Garcia, with a frustoconical configuration in order to create a better seal between them, for when the dispenser head is not in use.

Regarding claim 2, the abutment zone includes plane abutment surfaces (24) that are situated in a symmetrical manor about the travel axis of the shutter. Regarding claims 3-5, the shutter (17) comprises a plunger pin connected to a shoulder (10), the plunger pin designed to close the dispenser orifice (25) by extending into an outlet section of the duct that defines the support zone and the dispenser orifice (25). The outlet section being formed with guide splines (not shown, but the splines match the grooves 12 on the plunger pin) that projects radially inwards. Regarding claim 9, the spring means (11) of the dispenser head is made integrally as a single piece with the shutter (17).

Claims 1 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lacout (2,772,010) in view of Clanet et al (5,624,055).

Lacout shows a dispenser head (1) comprising a connection sleeve (T), a dispenser orifice (6), a duct (10) connecting the connection sleeve (T) to the dispenser orifice (6) and a press surface (30). The head further comprising a shutter (4) that is housed at least in part in the duct (10), which is resiliently biased by spring means (13) towards the dispenser orifice (6). The shutter (47) includes a contact zone (located on the shutter) that bears in a resilient leak tight manor against the dispensing orifice (6). The shutter being axially movable in such a means as to withdraw its contact zone form the dispensing orifice (6) creating an outlet passageway for the fluid when sufficient pressure is exerted on the press surface (30). The shutter (4) also includes at least one abutment zone (located on the shutter) that is resiliently biased by the spring means (13) against a fixed support zone (located on the endpiece 5). Lacout does not disclose that at least one of the dispenser orifice and the contact zone present a frustoconical configuration. However, Clanet et al shows a dispenser head (18) including a shutter (23) and a dispensing orifice (29), the shutter and the dispensing orifice both having frustoconical configurations (figure 4). It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention, under the teachings of Clanet et al, to construct the dispensing orifice (6) and shutter (4), of Lacout, with a frustoconical configuration in order to create a better seal between them, for when the dispenser head is not in use. Regarding claim 6, the dispenser head (1) includes a body (45) and a dispenser endpiece (5) connected to the body, the endpiece (5) forming the duct (10) and the dispenser orifice (6).

Allowable Subject Matter

Claims 7 and 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bougamont et al (5,622,318) shows a dispenser head including a stopper. Tempelman (4,957,239) shows a dispenser with a spring and a shutter. Grogan (5,738,282) shows a dispenser with a cam surface.

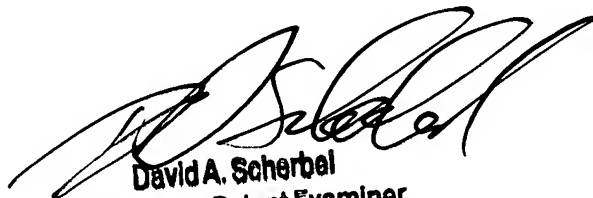
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason J. Boeckmann whose telephone number is (571) 272-2708. The examiner can normally be reached on 7:30 - 5:00 m-f, first Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Scherbel can be reached on (571) 272-4919. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3752

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JJB JJB 11-9-05



David A. Scherbel
Supervisory Patent Examiner
Group 3700